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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re A.W., et. al., Persons Coming Under  
the Juvenile Court of Law.

B248244

(Los Angeles County  
Super. Ct. No. CK97271)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

MARK W.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County.

Margaret Henry, Judge. Affirmed.

Kimberly A. Knill, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Jessica S. Mitchell, Senior Associate County Counsel, for Plaintiff and Respondent.

Mark W. (father) appeals from the juvenile court's judgment and orders declaring his two children dependents of the court under Welfare and Institutions Code section 300, subdivision (b),<sup>1</sup> and ordering him to undergo drug testing and participate in parenting courses and individual counseling. He contends substantial evidence supports neither jurisdiction nor the dispositional orders. We affirm.

### **Factual Background**

A.W., born in March 2012, and C.W., born in January 2013, are the children of L.B. (mother) and father.<sup>2</sup> Two days after C.W. was born, DCFS received a referral that C.W. and mother tested positive for cocaine at C.W.'s birth. C.W. was born prematurely and exhibited symptoms of withdrawal. DCFS determined mother's children were at a high risk of future harm and general neglect, and removed them from mother's custody. At the detention hearing on January 10, 2013, the juvenile court found there was a prima facie showing of jurisdiction under section 300, subdivision (b) and a prima facie case for detaining the children.

Father was not present at C.W.'s birth, and mother refused to provide his contact information or information concerning his whereabouts. Father later visited DCFS and signed a statement of parentage for A.W. and C.W.

According to DCFS's jurisdiction/disposition report, father stated he loved his children very much, did not want them to remain in the DCFS system, and had support to care for them. He maintained he did not use drugs, never saw mother use drugs, and did not know about mother's drug use. Mother reported father was good to her and her family, helped with the children, and supported her. She also stated father did not use

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise noted.

<sup>2</sup> Mother also has two older children with different fathers, Z.C., born in 2001, and M.H., born in 2007. Mother, Z.C., and M.H. are not parties to this appeal. We have omitted most of the facts relating to mother's drug use and criminal history, as such facts are not relevant to father's appeal.

drugs or engage in domestic violence. DCFS inspected father's home and concluded it had adequate space for children and appeared safe.

However, the jurisdiction/disposition report also related father's long history of drug possession, criminal convictions, and incarcerations. Between 1987 and 2007, father had six drug-related convictions: four for possessing/purchasing cocaine base, one for possessing controlled substance paraphernalia, and one for possessing/purchasing narcotics for sale.<sup>3</sup> His latest incarceration was a three-year prison term for his conviction in 2007 for possessing/purchasing cocaine base. He was released in March 2010. When asked about his criminal history, father told a DCFS social worker he had "some little things from a long time ago."

On January 31, 2013, DCFS filed a first-amended petition, alleging mother's use of cocaine caused C.W. physical harm (count b-1), mother's current drug use and history of substance abuse rendered her unable to provide care and supervision for her children (count b-2), and father's criminal history and conduct placed A.W. and C.W. at risk of physical and emotional harm (count b-3). At the contested adjudication of the first-amended petition on February 28, 2013, father requested that count b-3 be dismissed, arguing no nexus existed between his criminal history and any risk to his children. Mother did not contest count b-1 but requested that count b-2 be dismissed, contending no evidence indicated she was a substance abuser or her drug use injured her other children.

The juvenile court found by a preponderance of evidence that counts b-1, b-2, and b-3 were true, and declared the children to be dependents of the court. The court found that because Mother used cocaine knowing it would harm her unborn child, she was a substance abuser who could not provide adequate care and supervision for her children. The court also found the children were at risk from substance abuse issues because father's extensive criminal history related to mother's harmful cocaine use. The court

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<sup>3</sup> Father also had non-drug related convictions for, among other things, assault with a deadly weapon, giving false identification to a peace officer, and possessing a firearm as a felon.

then continued the disposition hearing to determine whether father had completed a drug program or undergone individual counseling to address his criminal history.

At the disposition hearing on March 7, 2013, father's counsel stated father underwent drug testing per his criminal court orders and no criminal issues were pending, although DCFS was unable to contact father to verify if he completed a drug program or counseling because his listed telephone number was disconnected. The court continued the disposition hearing for father to complete a drug test, but father was unable to complete the first drug test due to a clerical error. He missed his rescheduled test two days later.

On March 21, 2013, at the final disposition hearing, the court found by clear and convincing evidence that A.W.'s and C.W.'s placement with father would be detrimental to their safety, protection, and physical and emotional well-being, and ordered they be placed under DCFS supervision for placement in foster care. The court provided father with reunification services and monitored visits with his children and ordered him to undergo six drug tests and participate in a full drug rehabilitation program if any tests were missed or positive. The court also ordered father to attend parenting classes and individual counseling.

## **Discussion**

### **1. Jurisdictional Finding**

Jurisdiction under section 300, subdivision (b) is appropriate where "[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child . . . ." (§ 300, subd. (b).) "[I]t is necessary only for the court to find that one parent's conduct has created circumstances triggering section 300 for the court to assert jurisdiction over the child. [Citations.] Once the child is found to be endangered in the manner described by one of the subdivisions of section 300 . . . the child comes within the court's jurisdiction." (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491.) "For jurisdictional purposes, it is irrelevant which parent created those circumstances. . . . "[T]he minor is a dependent if the actions of either

parent bring [him] within one of the statutory definitions of a dependent.” [Citation.] For this reason, an appellate court may decline to address the evidentiary support for any remaining jurisdictional findings once a single finding has been found to be supported by the evidence.” (*Id.* at p. 1492, citation omitted.)

At a jurisdictional hearing, a juvenile court must base its findings on a preponderance of evidence. (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1432.) “On appeal, the ‘substantial evidence’ test is the appropriate standard of review for both the jurisdictional and dispositional findings. [Citations.] The term ‘substantial evidence’ means such relevant evidence as a reasonable mind would accept as adequate to support a conclusion; it is evidence which is reasonable in nature, credible, and of solid value. [Citation.]” (*Id.* at p. 1433.) “In making this determination, all conflicts are to be resolved in favor of the prevailing party, and issues of fact and credibility are questions for the trier of fact. [Citation.] In dependency proceedings, a trial court’s determination will not be disturbed unless it exceeds the bounds of reason. [Citation.]” (*In re Ricardo L.* (2003) 109 Cal.App.4th 552, 564.)

That C.W. was born “under the influence of a dangerous drug is legally sufficient for the juvenile court to exercise jurisdiction” over both children. (See *In re Troy D.* (1989) 215 Cal.App.3d 889, 897; *In re Dorothy I.* (1984) 162 Cal.App.3d 1154, 1157 [“The state may intervene to protect a minor when the minor’s sibling has been mistreated.”].) Father argues the jurisdictional finding must be reversed because there was insufficient evidence that his past criminal history posed a risk of harm to his children. We decline to address the claim because mother’s conduct supports jurisdiction. (See *In re I.A.*, *supra*, 201 Cal.App.4th at p. 1492.)

## **2. Dispositional Orders**

Father also challenges the dispositional orders, arguing there was insufficient evidence that his criminal history would pose a risk of harm to A.W. and C.W. if they were placed with him. This argument is without merit.

“The juvenile court has broad discretion to determine what would best serve and protect the child’s interest and to fashion a dispositional order in accordance with this

discretion. [Citations.] The court’s determination in this regard will not be reversed absent a clear abuse of discretion.”” (*In re Corrine W.* (2009) 45 Cal.4th 522, 532.)

Where substantial evidence supports the dispositional order, there is no abuse of discretion. (*In re Daniel C.H.* (1990) 220 Cal.App.3d 814, 839.)

“[A] reunification plan “must be appropriate for each family and be based on the unique facts relating to that family.” [Citation.] Section 362, subdivision (c) states in pertinent part: “The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court’s finding that the minor is a person described by Section 300.” [Citation.]” (*In re Drake M.* (2012) 211 Cal.App.4th 754, 770.)

Substantial evidence supports both the juvenile court’s order that father undergo drug testing, parenting classes and individual counseling and its finding that placement with him would be detrimental to A.W.’s and C.W.’s well-being. Father was frequently incarcerated over the last twenty-six years for drug-related crimes, was unforthcoming about this criminal history, and failed to submit to a court-ordered drug test. The court could reasonably conclude not only that father’s involvement with drugs was ongoing, but also that his and mother’s drug issues were interrelated and that he was in part responsible for C.W. testing positive for cocaine at birth. The dispositional orders were therefore well within the court’s discretion.

### **Disposition**

The judgment and orders are affirmed.

NOT TO BE PUBLISHED.

CHANNEY, Acting P. J.

We concur:

JOHNSON, J.

MILLER, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.